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FAX TRANSMISSION

DATE: January 13, 2004

PTO IDENTIFIER: Application Number 09/622,257-Conf. #8211
Patent Number

Inventor: Pierre Coutos-Thevenot

MESSAGE TO: US Patent and Trademark Office

FAX NUMBER: (703) 872-9306

FROM: CONNOLLY BOVE LODGE & HUTZ LLP

John A. Evans

PHONE: (202) 331-7111

Attorney Dkt. #: 20061-00091-US

PAGES (Including Cover Sheet): 8

CONTENTS: 2 Statutory Disclaimers (2 pages);
Fee Transmittal (1 page);
Terminal Disclaimer Under 37 C.F.R. § 1.130 (3 pages)
Certificate of Transmission under 37 CFR 1.8 (1 page); and
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PTO/SB/67 (12-97)

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PTO/SA/17 (10-03)

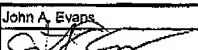
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FEE TRANSMITTAL for FY 2004		Complete if Known	
<small>Effective 10/01/2003, Patent fees are subject to annual revision.</small>		Application Number	09/822,257-Conf. #8211
		Filing Date	January 2, 2000
		First Named Inventor	Pierre Coutos-Thevenot
		Examiner Name	R. Kallis
		Art Unit	1638
		Attorney Docket No.	20061-00091-US
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27			
TOTAL AMOUNT OF PAYMENT (\$)		220.00	

METHOD OF PAYMENT (check all that apply)		FEE CALCULATION (continued)																																																																																																																																																																																							
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2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE Total Claims: <input type="text"/> ** = <input type="text"/> Fee Paid: <input type="text"/> Independent Claims: <input type="text"/> ** = <input type="text"/> Fee Paid: <input type="text"/> Multiple Dependent: <input type="text"/> ** = <input type="text"/> Fee Paid: <input type="text"/>																																																																																																																																																																																									
**or number previously paid, if greater. For Reissues, see above																																																																																																																																																																																									

SUBMITTED BY		(Complete if applicable)	
Name (Print/Type)	John A. Evans	Registration No. (Attorney/Agent)	44,100
Signature		Telephone	202-331-7111
		Date	January 13, 2004

Attorney Docket: 20061/00091

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of: :
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Pierre Coutos-Thevenot et al. :
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Serial No.: 09/622,257 : Art Unit: 1638
: :
Filed: January 2, 2000 : Examiner: Kallis, Russell
: :
For: NUCLEIC ACID COMPRISING : Atty Docket: 20061/00091
THE SEQUENCE OF A :
STRESS-INDUCIBLE :
PROMOTER AND A :
SEQUENCE OF A GENE :
ENCODING A STILBENE :
SYNTHASE :

TERMINAL DISCLAIMER UNDER 37 C.F.R. § 1.130

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Champagne Moët & Chandon, a corporation organized under the laws of France, and Bayer Aktiengesellschaft, a corporation organized under the laws of Germany, are jointly, the assignees of the entire right, title, and interest of the above-referenced patent application.

The assignment was recorded in the United States Patent and Trademark Office at Reel 011437, Frame 0657.

Claim 30 stands rejected under the judicial doctrine of obviousness double patenting over the claims of prior patent No. 6,677,505.

With respect to Claim 30, the Assignees of the instant application hereby disclaim, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently

09/622,257; Coutos-Thevenot

1

Attorney Docket: 20061/00091

shortened by any terminal disclaimer, of prior Patent No. 6,677,505. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Claim 31 stands rejected under the judicial doctrine of obviousness double patenting over the claims of prior patent No. 6,063,988.

With respect to Claim 31, the Assignees of the instant application hereby disclaim, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,063,988. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of

Attorney Docket: 20061/00091

competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The undersigned is an attorney of record.

A Terminal Disclaimer Fee under 37 CFR 1.20(d) is included.

The Commissioner is hereby authorized to charge any fees or credit any overpayment associated with this communication, including any extension fees or fees for the net addition of claims, to Deposit Account No. 22-0185.

Respectfully submitted,



John A. Evans, Reg. No 44,100
Connolly, Bove, Lodge & Hutz LLP
1990 M Street, N.W., Suite 800
Washington, D.C. 20036-3425
Telephone: 202-331-7111

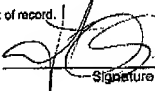
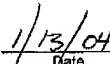
Date: January 13, 2004

PTO/SB/26 (05-03)

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT	Docket Number (Optional) 20061-00091-US
<p>In re Application of: Pierre Coutos-Thevenot</p> <p>Application No.: 09/622,257-Conf. #8211</p> <p>Filed: January 2, 2000</p> <p>For: NUCLEIC ACID COMPRISING THE SEQUENCE OF A STREE-INDUCIBLE PROMOTER AND A SEQUENCE OF A GENE ENCODING A STILBENE SYNTHASE</p> <p>The owner*, <u>Champagne Moot & Chandon & Bayer Aktiengesellschaft</u>, of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. <u>6,063,988</u>. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</p> <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input type="checkbox"/> For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record.</p> <div style="text-align: center; margin-top: 10px;">  Signature </div> <div style="text-align: center; margin-top: 10px;">  Date </div> <div style="text-align: center; margin-top: 10px;"> John A. Evans - 44,100 Typed or printed name </div> <div style="text-align: center; margin-top: 10px;"> (202) 331-7111 Telephone Number </div> <p><input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) is included.</p> <p style="font-size: small; margin-top: 20px;">*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/06 may be used for making this certification. See MPEP § 324.</p>	

PTO/SB/26 (05-03)

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT	Docket Number (Optional) 20061-00091-US
<p>In re Application of: Pierre Coutos-Thévenot</p> <p>Application No.: 09/822,257-Conf. #8211</p> <p>Filed: January 2, 2000</p> <p>For: NUCLEIC ACID COMPRISING THE SEQUENCE OF A STREE-INDUCIBLE PROMOTER AND A SEQUENCE OF A GENE ENCODING A STILBENE SYNTHASE</p> <p>The owner*, Champagne Moot & Chandon & Bayer Aktiengesellschaft, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,677,505. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is released, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</p> <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input type="checkbox"/> For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;">  _____ Signature </div> <div style="text-align: center;"> 1/13/04 _____ Date </div> </div> <div style="display: flex; justify-content: center; margin-top: 10px;"> <div style="text-align: center;"> John A. Evans - 44,100 _____ Typed or printed name </div> <div style="text-align: center; margin-left: 20px;"> (202) 331-7111 _____ Telephone Number </div> </div> <p><input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) is included.</p> <p style="font-size: small; margin-top: 20px;">*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/26 may be used for making this certification. See MPEP § 324.</p>	